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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

GREENE, DANIEL L

ART UNIT PAPER NUMBER

3621

DATE MAILED: 09/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/814,563

Applicant(s)

PARKER ET AL.

Examiner

Daniel L. Greene

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings were received on 8/13/2004. These drawings are acceptable.
- 2.

Response to Amendment

3. Applicant's arguments, see REMARKS, filed 8/13/2004, with respect to the rejection(s) of claim(s) 1, 12, 13, 14, and 22 under Conmy and Schuster have been fully considered and are persuasive. Therefore, the rejection has been withdrawn.

However, upon further consideration, a new ground(s) of rejection is made in view of Rubert et al. U.S. Patent 6,366,915.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. **Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conmy et al. U.S. Patent 6,101,480 [Conmy], Schuster et al. U.S. Patent 6,577,622 B1 [Schuster], and further in view of Rubert et al. U.S. Patent 6,366,915 [Rubert].**

As per claims 1, 14, 22, and 28:

Conmy discloses the claimed invention except for the primary user using a wireless scheduling device. However, Conmy does disclose the concept of mobile and disconnected users being provided the same C&S (calendar and scheduling) functionality that is available to them when they are connected to the LAN. Col. 11, lines 3-15. Schuster teaches that it is known in the art to provide a PID (Protocol identifier) interface such as a PDA (Personal Digital Assistant). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the C&S system of Conmy with the PID interface of Schuster, in order to permit the user to be mobile and use his PDA for scheduling meetings and being kept up to date on the meetings he is scheduled to attend.

The examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. *In re Nomiya*, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken, as a whole would suggest to one of ordinary skill in the art. *In re Simon*, 174 USPQ 114 (CCPA 1972); *In re McLaughlin*, 170 USPQ 209 (CCPA 1971). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. *In re Bozek*, 163 USPQ 545 (CCPA 1969). Schuster is a system that is scheduling and bringing together participants in a conference call/meeting. Both Conmy and Schuster deal with bringing participants

Art Unit: 3621

together at a common time and place. Conmy's place is physical while Schuster's place is primarily electronic. The end results are both effectively the same. That is a multiple participant having the ability to communicate and interact with each other within the same time period.

- 5 communicating an availability request to a server to view availability data set for the set of attendees using the scheduling device, the server having access to the calendar data for each attendee in the set of attendees; Conmy, Col. 4, lines 12-40.

Conmy discloses the claimed invention except for the use of a wireless device. However, Conmy does teach about utilizing wireless devices as detailed in the previous section. Schuster teaches that it is known in the art to use a wireless device for C&S. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the C&S system of Conmy with the wireless capabilities of Schuster in order to provide the user with greater flexibility in the use of their time.

As per the previous section on the **Claim Amendment**, the limitation of the use of a wireless network facility is addressed and does not render the claim patentable.

Conmy and Schuster disclose the claimed invention except for an indication of whether an attendee granted permission to access the calendar data, and receiving by the scheduling device from the server the availability data set only for those attendees who have granted permission to access their data. However, Conmy does teach about a listing portion providing a list of invitees sorted by those for whom calendar information cannot be found. Col. 8, lines 8-20. The Examiner submits that one reason an invitee could not be found is that the user did not have permission to access their

Art Unit: 3621

database. Conmy further teaches about the use of different status indicators in reference to the invitees such as "Free Time," "Busy Time," "OK," "Conflict," or "Other". A reference is to be considered not only for what it expressly states, but also for what it would reasonably have suggested to one of ordinary skill in the art. *In re DeLisle*, 160 USPQ 806 (CCPA 1969). Conmy reasonably suggest the use of status indicators to provide the user with information that they think is important to know about the invitee. Conmy does not specifically disclose an indication of whether a attendee granted permission to access the calendar data.

However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The status indicator steps would be performed the same regardless of the type of data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to set up status indicators that were important to the user, i.e. Free Time, Busy Time Conflict, Permission to Access Denied, because such identification of data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

Art Unit: 3621

In reference to Conmy and Schubert not specifically teaching receiving by the scheduling device from the server the availability data set only for those attendees who have granted permission to access their data.

Rubert teaches that it is known in the art to provide receiving by the scheduling device from the server the availability data set only for those attendees who have granted permission to access their data. Col. 12, lines 8-20. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the status indicators of Conmy with the receiving by the scheduling device from the server the availability data set only for those attendees who have granted permission to access their data of Rubert, in order to provide the user with a list viable attendees by not including the attendees who did not allow the server to access their data.

As per claims 2, 15, and 23:

Conmy and Schuster further disclose:

displaying data derived from the availability data set on the wireless scheduling device. Conmy, Fig. 5-9.

As per claims 3, 16, and 24:

Conmy further disclose:

wherein the data derived from the availability data set is displayed as free time and busy time. Fig. 5-9.

As per claims 4 and 17:

Conmy further disclose:

wherein the availability request is communicated to the server via a network. Col. 4, lines 14-30.

As per claims 5 and 18:

Conmy further disclose:

wherein the network includes the Internet. Col. 4, lines 14-30.

As per claims 6, 19, and 25:

Conmy further disclose:

wherein the availability request includes an identifier for each attendee and a time period for which availability should be determined. Col. 3, lines 50-55, lines 55-64.

As per claims 7, 20, and 26:

Conmy further disclose:

wherein the identifier for each attendee is an email address. Col. 3, lines 50-55.

As per claims 8 and 21:

Conmy further disclose:

wherein the calendar data for each attendee is stored in an availability database in communication with the server. Col. 4, lines 1-10.

As per claim 9:

Conmy further disclose:

scheduling an event based on the availability data set. Fig. 3-4.

As per claim 10:

Conmy discloses the claimed invention except for the wherein the event is scheduled using the wireless scheduling device. . Schuster teaches that it is known in the art to provide wherein the event is scheduled using the wireless scheduling device.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the C&S system of Conmy with the wherein the event is scheduled using the wireless scheduling device of Schuster, in order to provide the user with greater flexibility and availability.

As per claim 11:

Conmy further disclose:

updating the calendar data for each attendee with the scheduled event. Col. 5, lines 52-62.

As per claim 12:

Conmy further disclose:

requesting access to the calendar data for each attendee in the set of attendees.
Col. 5, lines 35-51.

As per claim 13:

Conmy further disclose:

wherein access to calendar data is requested via email over the Internet. Col. 9, lines 10-15.

As per claim 27:

Conmy does not expressly show wherein the permission to access the calendar data of the attendee is stored in an availability database in communication with the server. However, Conmy does show a database **200**, which contains USER PROFILES **202**. Fig. 1, Col. 3, lines 45-55. It would have been obvious to a person having ordinary skill in the art at the time to which the invention pertains would have known to include in the user profile whether or not the attendee would provide permission to access their data.

Also, the type of data is nonfunctional descriptive material and is not functionally involved in the steps recited. The scheduling steps would be performed the same regardless of the name of the data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to collect from a customer any type of data that was relevant because such data does not functionally relate to the steps in the method

Art Unit: 3621

claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel L. Greene whose telephone number is 703-306-5539. The examiner can normally be reached on M-Thur. 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on 703-305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3621

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

9/9/2004

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